

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 202 of 1995

in  
SPECIAL CIVIL APPLICATION NO. 2798 OF 1995.

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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GSRTC

Versus

ABDULREHMAN R KHIRSARA

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Appearance:

MR SK BUKHARI for Petitioner  
MR HK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.S.PARIKH

Date of decision: 06/03/96

ORAL JUDGEMENT

This Letters Patent Appeal is filed by the  
Gujarat State Road Transport Corporation ("GSRT" for

short) against the order passed by the learned Single Judge on April 7, 1995. At the time of admission the following order was passed on June 22, 1995 by the Division Bench of this Court.

"Admit.

Notice returnable on 18th July 1995.

Counsel for the applicant states that the opponent has been reinstated. The Labour Court Award is, therefore, stayed only to the extent of payment of backwages."

The opponent was ordered to be reinstated but the award passed by the Labour Court was stayed only to the extent of payment of back wages.. To day, Civil Application is called out for hearing. With the consent of the parties, however, we have taken this LPA for final hearing to day.

The learned counsel for the appellant submitted that in the facts and circumstances of the case and particularly considering the fact that to the credit of the respondent workman, there were about 17 penalties in past, that the Labour Court has committed an error of law apparent on the face of the record in granting 50% of the backwages. It was also contended that the workman did not remain present at the time of hearing of the case and the Labour Court proceeded with the matter ex parte. When the workman had not remained present and the inquiry was not found to be defective, the Labour Court has committed an error in granting reinstatement as well as in granting 50% of the backwages.

Mr.Rathod, learned counsel for the respondent workman submitted that without entering into the question of maintainability or otherwise of the Letters Patent Appeal, the respondent workman would leave it to the court to award appropriate amount by way of backwages. The said question is also left to the court by the appellant Corporation.

In the facts and circumstances of the case and considering the fact that the respondent workman had remained absent and that in past about 17 times he was punished, ends of justice would be met if the award is modified by confirming the order of reinstatement but by modifying the award that instead of 50% the respondent workman will be paid 25% of backwages. The appeal is accordingly disposed of. Rest of the award stands. Amount of 25% of the backwages will be paid by the appellant Corporation as expeditiously as possible

preferably within 8 weeks from the date of the receipt of  
the writ of this court.DS.

Dt.6.3.1996. (C.K.THAKKER J.)

(M.S.PARIKH J.)

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